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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



DANIEL EICHINGER
DIRECTOR

March 17, 2022

The Honorable Mike Mueller
State Representative
House Government Operations
P.O. Box 30014
Lansing, Michigan 48909-7536

Dear Chairman Mueller and honorable members of the House Government Operations Committee:

I would like to submit the following written testimony regarding House Bills 4315 and 4415.

The Department of Natural Resources opposes House Bill 4315. Conservation officers are highly trained to protect the natural resources of this state by enforcing methods of take, quantity of take, and licensing of participants. This only works when officers are able to conduct patrol activities and enforce violations the same as other law enforcement officers within the State of Michigan. This bill is focused on eliminating all patrol activity of conservation officers, whether on public or private property, and no other law enforcement officers.

A regular part of a conservation officer's duties includes checking anglers' and hunters' licenses for compliance with current laws and regulations. Fees collected from these licenses are used for wildlife management and are imperative to protect the revenue supporting Michigan's \$11 billion hunting and fishing industry. These checks are constitutional and without the ability to check licenses and methods of take on public and private property, increasing non-compliance could lead to significant reductions in wildlife populations and revenue for wildlife management and restoration; in turn, negatively affecting our tourism industry across Michigan.

Additionally, the loss of license sales, in an already declining sport, could significantly impact federal revenue match through the US Fish and Wildlife Service. These federal funds contribute millions in revenue to the Department for implementing fish stocking, species protection, and game management.

House Bill 4315 also prohibits third party reports from initiating investigations by conservation officers that would require entry onto public or private property. Third party complaints create law enforcement responses, which helps to save lives, protect property, and identify criminal activity. This leaves many absent landowners vulnerable to increased criminal activity including trespass. An officer, for example, could not respond and enter public and private property when a neighbor called in a trespass complaint. In addition, contrary to Section 324.51119 of NREPA, a Department employee would not be able to go on Commercial Forest (CF) land for issues

such as CF landowner violations, hunter disputes, or posting a notification of CF declassification.

Furthermore, this bill would restrict conservation officers' ability to respond to environmental disasters. The Environmental Investigation Section (EIS) commonly receives complaints of illegal activity in progress, for example:

- Illegal burning of solid waste
- Dumping of septic waste on fields
- Dredging bottomlands
- Constructing in wetlands or on bottomlands
- Disposal and burying solid waste; and
- Other human caused or failed infrastructure disasters such as oil or chemical spills, leaks, and ruptures on public and private property.

These types of criminal activity need immediate, on scene responsive investigation, which may be prohibited by this bill. Obtaining a search warrant would be very difficult, if not, in some cases, impossible, to obtain in time to investigate and mitigate the impact on the environment and health and safety of the public. Conservation officers commonly investigate and contact the owner or employee to correct the behavior, which typically results in no charges being sought.

Obtaining a description of the property and location of an environmental incident is commonly done in the first visit or response. Conservation officers need to see the area and locate the suspected prohibited civil and criminal activity to even be able to return with a search warrant and conduct evidence gathering. Frequently, environmental complaints are on vacant, abandoned, and rural property due to the nature of the violation and an attempt to conceal the activity. The locating of the owner prior to certainty of the property description would result in a delay that could cause the loss or concealment of evidence and a risk to human health and the environment.

Currently, the Department and all other law enforcement agencies, utilize constitutional provisions and best practices of the "Open Fields Doctrine" upheld by the courts in the performance of their duties. The U.S. Constitution and the U.S. Supreme Court have already placed reasonable restrictions and protections concerning areas known as "open fields." The Court has decided that "open fields" do not have Fourth Amendment protections like persons, houses, papers, and effects. (*Hester v United States*, 265 U.S. 57, 59 (1924).) This premise has been upheld not only in Michigan, but across the country.

The Department of Natural Resources also opposes House Bill 4415. The bill could result in fewer license sales due to a decrease in enforcement. License fees pay for Michigan wildlife conservation programs and currently, state general fund dollars do not. This structure is based on the North American Model of Wildlife Conservation in which the United States government and all states within adhere to. As a result, this could increase Department requests for general fund revenue.

Hunting, fishing, and trapping are a fee-based activity in Michigan. A sportsman must pay a fee in the form of a license to participate and take wildlife. Without the ability to check the status of whether someone has paid to participate or not negates the reason licenses are required. Hunting, trapping, and fishing without a license is already one of the most common violations of law seen by conservation officers. Without the authority to check individuals for license compliance, this type of violation will continue to increase.

Thank you for your consideration of the department's viewpoint on the legislation. I look forward to continuing to work with you on this important issue. Please feel free to contact me at 517-281-1437, or RidderbuschtT@michigan.gov, should you need additional information or updates.

Sincerely,

A handwritten signature in black ink, appearing to read 'Taylor Ridderbusch', followed by a horizontal line extending to the right.

Taylor Ridderbusch
Legislative Liaison
517-281-1437